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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;
16 OTTOMOTTO LLC; OTTO TRUCKING
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA-JSC

**PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF ITS
DISCOVERY LETTER BRIEF IN
SUPPORT OF ITS MOTION TO
COMPEL AND EXHIBITS THERETO**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal confidential information in portions of its Discovery Letter Brief in Support of Its Motion To Compel (“Discovery Letter Brief”) and exhibits thereto. Specifically, Waymo requests an order granting leave to file under seal the portions of the document as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Waymo’s Discovery Letter Brief	Highlighted Portions	Waymo (green highlighting); Uber ¹ (blue highlighting)
Exhibit 1	Highlighted Portions	Waymo (green highlighting)
Exhibit 2	Highlighted Portions	Waymo (green highlighting); Uber (blue highlighting)
Exhibits 3-5, 7, 12	Highlighted Portions	Uber
Exhibits 6, 11	Entire Document	Uber
Exhibit 10	Entire Document	Lior Ron

I. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamkana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)). Both the California Uniform Trade Secrets Act and the Defend Trade Secrets Act provide for maintaining the confidentiality of alleged trade secrets. Cal. Civ. Code § 3426.5 (“In an action under this title, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include . . . sealing the records of the action[.]”); 18 U.S.C. § 1835(a)

¹ “Uber” means Uber Technologies, Inc., Ottomotto LLC, and Otto Trucking LLC, collectively.

1 (“[T]he court shall enter such orders and take such other action as may be necessary and appropriate to
2 preserve the confidentiality of trade secrets[.]”).

3 **II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION**

4 The Court should seal the portions of Waymo’s Discovery Letter Brief and Exhibits 1-2
5 (highlighted in green) identified by Waymo in the table above. Waymo seeks to file this
6 information under seal because it discloses Waymo’s trade secrets and confidential business
7 information. *See* Declaration of James Judah (“Judah Decl.”), ¶¶ 3-4. Courts have determined that
8 trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No.
9 14-cv-03078-JSC, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d
10 at 1179); *see also Brocade Commc’ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428 PSG, 2013 WL
11 211115, at *1, *3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document that “consists entirely
12 of descriptions of Brocade’s trade secrets.”). Confidential business information that, if released, may
13 “harm a litigant’s competitive standing” also merits sealing. *See Nixon v. Warner Commc’ns, Inc.*,
14 435 U.S. 589, 598-99 (1978). Waymo seeks to seal confidential business information and trade secret
15 information that fit squarely within these categories. Judah Decl. ¶¶ 3-5. Waymo maintains this
16 information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with strict
17 secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Judah Decl. ¶ 4. Waymo has
18 narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music Grp.*
19 and *Brocade* found the confidential information at issue in those cases met the heightened
20 “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at *1; *Brocade*, 2013 WL
21 211115, at *1, *3. The information that Waymo seeks to seal, therefore, also meets this heightened
22 standard. The disclosure of Waymo’s trade secret and confidential business information would harm
23 Waymo (Judah Decl. ¶ 4), and, thus, the Court should grant Waymo’s administrative motion to seal.

24 **III. UBER’S AND LIOR RON’S CONFIDENTIAL INFORMATION**

25 Waymo only seeks to seal the portions of Waymo’s Discovery Letter Brief and Exhibit 2
26 (highlighted in blue), as well as the portions of Exhibits 3-7 and 11-12 identified in the table above,
27 because Waymo believes such information is considered confidential or non-public by Uber. Judah
28

1 Decl. ¶ 6. Waymo takes no position as to the merits of sealing Uber’s designated material, and
2 expects Uber to file a declaration in accordance with the Local Rules.

3 Waymo only seeks to seal Exhibit 10 because Waymo believes such information is considered
4 confidential or non-public by Lior Ron. Judah Decl. ¶ 7. Waymo takes no position as to the merits of
5 sealing Lior Ron’s designated material, and expects Lior Ron to file a declaration in accordance with
6 the Local Rules.

7 **IV. CONCLUSION**

8 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the above
9 listed documents accompany this Administrative Motion. For the foregoing reasons, Waymo
10 respectfully requests that the Court grant Waymo’s administrative motion to file under seal.

11
12 DATED: July 11, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

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14 By /s/ Charles K. Verhoeven

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Attorneys for WAYMO LLC